

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-13555-scc

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6 In the Matter of:

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8 LEHMAN BROTHERS HOLDINGS INC.,

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10 Debtor.

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12 - - - - - x

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14 U.S. Bankruptcy Court

15 One Bowling Green

16 New York, New York

17

18 June 2, 2017

19 10:22 AM

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23 B E F O R E :

24 HON SHELLEY C. CHAPMAN

25 U.S. BANKRUPTCY JUDGE

1 Doc. #53946 Motion for Sanctions filed by James N. Lawlor on
2 behalf of Lehman Brothers Holdings Inc.

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25 Transcribed by: Sherri L. Breach

1 A P P E A R A N C E S :

2 WOLLMUTH MAHER & DEUTSCH, LLP

3 Attorneys for Debtors

4 500 Fifth Avenue

5 New York, New York 10110

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7 BY: JOHN D. GIAMPOLO, ESQ.

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1 P R O C E E D I N G S

2 THE COURT: Sorry. I was stuck on the train. I
3 didn't mean to keep you waiting.

4 Good morning. All right. Go ahead.

5 MR. GIAMPOLO: Good morning, Your Honor. John
6 Giampolo from Wollmuth, Maher & Deutsch on behalf of the
7 movant, Lehman Brothers Holdings Inc as plan administrator.

8 THE COURT: Very good.

9 MR. GIAMPOLO: I had left for Your Honor a copy --
10 another copy of the notice of agenda.

11 THE COURT: Okay. I have it.

12 MR. GIAMPOLO: There's only matter --

13 THE COURT: Right.

14 MR. GIAMPOLO: -- on for this morning, Your Honor.
15 It's the motion to compel compliance with the ADR procedures
16 order for LBHI's indemnification claims to enforce
17 compliance and to hold parties in civil contempt and subject
18 to sanctions for violation and non-compliance.

19 This motion is only on this morning against one
20 party which is K&B Capital Corp.

21 THE COURT: Yes.

22 MR. GIAMPOLO: And just to let Your Honor know I
23 had -- no response has been filed. No opposition really has
24 been voiced to the motion. We have been in communication
25 with the attorney for K&B, a --

1 THE COURT: There is an attorney who has reached
2 out?

3 MR. GIAMPOLO: He has reached out, a Jeff Toback
4 --

5 THE COURT: Okay.

6 MR. GIAMPOLO: T-O-B-A-C-K, who's been in
7 communication with us. Other than asking for an adjourn --
8 for more -- other than asking for more and more adjournments
9 there's been no opposition voiced or filed.

10 Mr. Toback did call us again. I spoke to him late
11 yesterday.

12 THE COURT: Yes.

13 MR. GIAMPOLO: Again, he asked for an adjournment
14 and I again explained we can't give him anymore. He did --
15 he did not voice opposition to the motion. Instead, he just
16 simply asked that -- first he said he was not going to show
17 up today. He was not able to appear at today's hearing, and
18 he --

19 THE COURT: Where is he located, do you know?

20 MR. GIAMPOLO: I believe in New York, Your Honor.

21 THE COURT: Okay.

22 MR. GIAMPOLO: I could look up his address. I
23 don't have it in front of me.

24 THE COURT: Okay. Well, we didn't -- as far as
25 I'm aware we did not receive any request for a telephonic

1 appearance and it's now 10:25 and there is no one in the
2 courtroom --

3 MR. GIAMPOLO: And he told me --

4 THE COURT: -- so that's --

5 MR. GIAMPOLO: -- he would not be appearing.

6 THE COURT: Okay.

7 MR. GIAMPOLO: He simply -- the only thing he
8 asked for was that any order or any relief that's granted
9 today that it simply give his client, K&B, the opportunity
10 to be relieved of sanctions if K&B fully complies within a
11 certain number of days from today, if K&B fully complies
12 with mediation and if K&B escrows or deposits its respective
13 share of the mediation fees.

14 THE COURT: Okay.

15 MR. GIAMPOLO: That's all he asked for and he
16 asked that I voice that to the Court.

17 THE COURT: And you -- I assume you have no
18 objection to that.

19 MR. GIAMPOLO: I have no objection to that and, in
20 fact, Your Honor, what I did was I took the last order that
21 Your Honor entered granting this motion, the --

22 THE COURT: Yes.

23 MR. GIAMPOLO: -- omnibus order --

24 THE COURT: Yes.

25 MR. GIAMPOLO: -- entered back in December --

1 THE COURT: Right.

2 MR. GIAMPOLO: -- 15th, 2016.

3 THE COURT: Right. I think it's filed at Docket
4 54 168 I have it.

5 MR. GIAMPOLO: Correct.

6 THE COURT: Yeah.

7 MR. GIAMPOLO: What I did was I marked it up just
8 to be -- to grant the same relief against only K&B Capital
9 Corp and to just add that K&B Capital -- to make clear that
10 K&B Capital Corp can be relieved of sanctions if it fully
11 complies and appears for mediation, and prior to that time
12 deposits its respective share of the mediation fees and does
13 so within 30 days --

14 THE COURT: Okay.

15 MR. GIAMPOLO: -- of service of this order.

16 THE COURT: All right. Well, that sounds --

17 MR. GIAMPOLO: If I may, Your Honor, I have --

18 THE COURT: Sure.

19 MR. GIAMPOLO: -- a marked copy for you.

20 THE COURT: That would be great.

21 (Pause)

22 THE COURT: All right. I'll give this a read and
23 we'll get it on the docket later today. And that -- then
24 that just leaves this motion outstanding with respect to two
25 other parties with whom you're currently engaged I take it.

1 MR. GIAMPOLO: Correct. And the motion is
2 currently scheduled for hearing on July 27th as to those two
3 other parties.

4 THE COURT: Okay. And --

5 MR. GIAMPOLO: If they don't comply --

6 THE COURT: -- possibly they'll be --

7 MR. GIAMPOLO: -- with it.

8 THE COURT: -- a resolution before then, I would
9 think.

10 MR. GIAMPOLO: We certainly hope so. We just want
11 everybody to show up for mediation.

12 THE COURT: All right. All right. Thank you.
13 And, again, my apologies for having you wait.

14 Have a nice weekend.

15 MR. GIAMPOLO: No problem at all.

16 THE COURT: Thank you.

17 MR. GIAMPOLO: Thank you, Your Honor.

18 (Whereupon these proceedings were concluded at 10:26
19 a.m.)
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I N D E X

RULINGS

DESCRIPTION	PAGE
Doc. #53946 Motion for Sanctions filed by	
James N. Lawlor on behalf of Lehman Brothers	
Holdings Inc.	--

C E R T I F I C A T I O N

I, Sherri L. Breach, CERT*D-397, certified that the foregoing transcript is a true and accurate record of the proceedings.

Sherri L
Breach

Digitally signed by Sherri L Breach
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AAERT Certified Electronic Reporter & Transcriber CERT*D-397

Date: June 5, 2017

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